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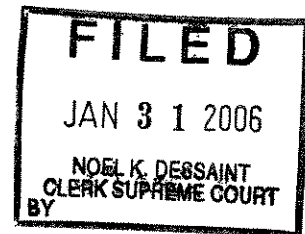
CLERK SUPREME COURT

R-05-0034

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January 31, 2006

The Honorable Ruth V. McGregor
Chief Justice
Arizona Supreme Court
1501 West Washington Street 4th Floor
Phoenix, AZ 85007-3329



Via email: acorallo@courts.az.gov

RE: Comment on Proposed Changes to Rule 45

Dear Chief Justice McGregor:

We are writing to comment on the proposed changes to Supreme Court Rule 45. The proposed rule change is excessive and unnecessary to achieve the State Bar's purpose of closing a loophole that allows members to jump from inactive status to active status to avoid annual MCLE requirements.

First, it is unclear what, if any, loophole exists under the current rules. If a member is switching from active to inactive status on a regular basis to avoid MCLE requirements, the member must be practicing while on inactive status and then immediately switching back to active status after filing his annual dues statement. The State Bar should be able to pursue disciplining that individual for failing to comply with the current rule since the member is practicing while on inactive status.

Second, the proposed changes are excessive. Under the State Bar's stated purpose, the Bar only needs to ensure that **active** members are completing 15 hours of MCLE. Under the proposed changes, members that wish to change their status from inactive to active are required to complete 30 hours of MCLE prior to becoming active. Additionally they must then complete the regular 15 MCLE hours during the educational year in which they reactivate for a total of 45 MCLE hours in one educational year. The result is not closing the loophole, but punishing those members who have been on inactive status for legitimate reasons.

In our situation, we were all active members of the State Bar who changed our status to inactive in order to stay home and raise our children while they are young. At some point, we plan on returning to the active practice of law, most likely on a part-time or pro bono basis. Under the proposed rule change, we would face an excessive burden in both time and money prior to being able to becoming practicing attorneys again. Through this proposed rule change, the State Bar is actively discouraging parents from the ability to take time off from their careers.

The State Bar's goal could easily be attained by the inclusion of the word "not" under Rule 45(b) so that it would read as follows: "An active member who transfers to inactive status is not exempt during the educational year in which the transfer occurs." This

change would prevent members from jumping back and forth between active and inactive status because they would still have to complete MCLE for the educational year in which they transfer their status, thus closing the loophole. There would be no need for the addition of Rule 45(e)(1).

Sincerely,

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